

Judge Ronald B. Leighton

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
)
 JOSEPH W. WADE,)
)
 Defendant.)
 _____)

NO. CR04-5490RBL

AMENDED PRELIMINARY
ORDER OF FORFEITURE

Pursuant to Rule 32.2 of the Federal Rules of Criminal Procedure and based upon the guilty plea of JOSEPH W. WADE to Manufacturing Marijuana, as charged in Count 1 of the Superseding Information, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(B), and upon the terms of the Plea Agreement filed in this matter between JOSEPH W. WADE and the United States, it is hereby

ORDERED, ADJUDGED and DECREED that pursuant to Title 21, United States Code, Section 853, JOSEPH W. WADE's interest in the following listed property is forfeited to the United States of America:

1. Net proceeds totaling \$19,071.28 from the sale of real property, together with its buildings, appurtenances, fixtures, attachments, and easements, located at East 1290 East Grapeview Loop Road in Grapeview, Washington 98546¹;

¹Because the real property located at East 1290 East Grapeview Loop Road, Grapeview, Washington, was sold in March 2005, the parties have stipulated and agreed that the defendant shall forfeit the proceeds from the sale of the property to the United States in the amount of \$19,071.28 in U.S. Funds to be paid at the time of sentencing.

2. One Hundred Sixty Thousand Dollars (\$160,000.00) in United States currency representing the net equity in the real property, together with its buildings, appurtenances, fixtures, attachments and easements, located at 2400 Feather Lane Northwest in Bremerton, Washington 98312, to include all marijuana grow equipment on the property;
3. Five Thousand Three Hundred Eighty-Three Dollars (\$5,383.00) in United States currency;
4. A Smith and Wesson handgun, model .22 long, serial number 3K26979;
5. A .357 Colt Python handgun, serial number E33133;
6. A Remington rifle, model 788, serial number A6176483 with scope;
7. 30/60 rifle, serial number 17258 with scope and hard case; and
8. All miscellaneous ammunition recovered from the properties located at 2400 Feather Lane Northwest in Bremerton, Washington 98312 and East 1290 East Grapeview Loop Road in Grapeview, Washington 98546.

IT IS FURTHER ORDERED that the United States Marshals Service shall seize the above-described property and maintain such seized property in its custody and control until further order of this Court, or until this Order becomes final pursuant to Rule 32.2(c)(2) of the Federal Rules of Criminal Procedure.

IT IS FURTHER ORDERED that pursuant to Title 21, United States Code, Section 853(n), the United States shall publish notice of the Preliminary Order of Forfeiture and of the intent of the United States to dispose of the property in accordance with law. The notice shall run for one (1) day each week for three (3) consecutive weeks in the Daily Journal of Commerce and/or any other appropriate newspaper of general circulation. The notice shall state that any person, other than the defendant, having or claiming a legal interest in the above-described property must file a petition with the Court within thirty (30) days of the final publication of notice or of receipt of actual notice, whichever is earlier.

The notice shall advise such interested persons that:

1. the petition shall be for a hearing to adjudicate the validity of the petitioner's alleged interest in such property;
2. the petition shall be signed by the petitioner under penalty of perjury; and

1 3. the petition shall set forth the nature and extent of the petitioner's right,
2 title, or interest in the forfeited property.

3 The petition shall also set forth any additional facts supporting the petitioner's
4 claim and the relief sought.

5 The United States shall also, to the extent possible, provide direct written notice as
6 a substitute for the published notice to any person known to have an alleged interest in
7 the above-described property which is the subject of this Preliminary Order of Forfeiture.
8 Upon adjudication of any third party claims, this Court will enter a Final Order of
9 Forfeiture pursuant to Rule 32.2(c)(2) of the Federal Rules of Criminal Procedure, in
10 which all such claims will be addressed.

11 IT IS FURTHER ORDERED that pursuant to Rule 32.2(b)(3) of the Federal Rules
12 of Criminal Procedure, this Preliminary Order of Forfeiture shall become final as to the
13 defendant at the time of sentencing and shall be made part of the sentence and included in
14 the judgment. Based upon the Plea Agreement and the guilty plea entered by the
15 defendant herein, the Court finds that the defendant had an interest in the forfeited
16 property. If no third party files a timely claim, this Order shall become the Final Order of
17 Forfeiture as provided by Rule 32.2(c)(2) of the Federal Rules of Criminal Procedure.

18 IT IS FURTHER ORDERED that after the disposition of any motion filed under
19 Rule 32.2(c)(1)(A) of the Federal Rules of Criminal Procedure and before a hearing on
20 any third party petition, discovery may be conducted in accordance with the Federal
21 Rules of Civil Procedure upon a showing that such discovery is necessary or desirable to
22 resolve factual issues.

23 IT IS FURTHER ORDERED that the United States shall have clear title to the
24 above-described property following the Court's disposition of all third party interests, or,
25 if none, following the expiration of the period provided in Title 21, United States Code,
26 Section 853(n), for the filing of third party petitions.

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1 IT IS FURTHER ORDERED that the Court shall retain jurisdiction to enforce this
2 Order, and to amend it as necessary, pursuant to Rule 32.2(e) of the Federal Rules of
3 Criminal Procedure.

4 The Clerk of the Court is directed to send a copy of this Preliminary Order of
5 Forfeiture to all counsel of record and twenty four (24) "raised seal" certified copies to
6 the United States Marshals Service in Seattle, Washington.

7 IT IS SO ORDERED this 20th day of November, 2006.

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9 RONALD B. LEIGHTON
UNITED STATES DISTRICT JUDGE

10 Presented by:

11
12 s/ Lisca Borichewski
13 LISCA BORICHEWSKI
14 Assistant United States Attorney

15 s/ Leonie G.H. Grant
16 LEONIE G.H. GRANT
17 Assistant United States Attorney

18 s/ Zenon Olbertz
19 ZENON OLBERTZ
20 Attorney for Defendant

21 s/ Joseph W. Wade
22 JOSEPH W. WADE
23 Defendant
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